

AMENDED IN ASSEMBLY MARCH 18, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1568

Introduced by Assembly Member Grove

January 30, 2014

An act to amend ~~Sections 14838.5 and 14838.64~~ *Section 14838.5* of the Government Code, and to amend ~~Sections 10508.5 and 20651.2~~ of the ~~Public Contract Code~~, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1568, as amended, Grove. Public contracts: direct quotes.

Existing law authorizes a state agency, the University of California, the California State University, and a community college district agency, *notwithstanding certain advertising, bidding, and protest provisions*, to award a contract for goods, services, or information technology with a value between \$5,000 and \$250,000 ~~or \$100,000 and \$250,000, as applicable~~, to a certified small business, including a microbusiness ~~and, or to a disabled veteran business enterprise~~, if that agency obtains price quotations from 2 or more certified small businesses *or disabled veteran business enterprises*, as specified.

~~This bill would require these agencies to directly obtain the price quotations from 2 or more certified small businesses, as specified.~~

This bill would, as provided, require a state agency to contact at least one additional certified small business or disabled veteran business enterprise, if that agency does not otherwise obtain more than the 2 required price quotations.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. The Legislature finds and declares the following:*

2 *(a) On February 18, 2014, the California State Auditor released*
3 *a report finding that in the 2012–13 fiscal year, 83 percent of*
4 *contract award amounts awarded to disabled veteran business*
5 *enterprises (DVBEs) went to only 30 DVBE firms. This represents*
6 *just 2 percent of the state’s DVBEs.*

7 *(b) According to the California State Auditor, one DVBE firm*
8 *entered into 922 contracts with six different awarding departments,*
9 *while 81 percent of DVBEs did not receive a single contract.*

10 *(c) In this report, the California State Auditor makes the*
11 *following recommendation to the Legislature: “For the DVBE*
12 *program to benefit a broad base of disabled veteran-owned*
13 *businesses financially, the Legislature should enact legislation*
14 *aimed at increasing the number of DVBEs that contract with the*
15 *State.” It is the intent of the Legislature to help implement this*
16 *recommendation by encouraging agencies exercising the small*
17 *business option to “cold call” small businesses and DVBEs that*
18 *have not previously contracted with that agency.*

19 *(d) Expanding the number of bids solicited from small businesses*
20 *and DVBEs will increase competition and provide greater*
21 *opportunities for participation in the program.*

22 ~~SECTION 1.~~

23 *SEC. 2. Section 14838.5 of the Government Code is amended*
24 *to read:*

25 14838.5. (a) (1) Notwithstanding the advertising, bidding,
26 and protest provisions of Chapter 6 (commencing with Section
27 14825) of this part and Chapter 2 (commencing with Section
28 10290) and Chapter 3 (commencing with Section 12100) of Part
29 2 of Division 2 of the Public Contract Code, a state agency may
30 award a contract for the acquisition of goods, services, or
31 information technology that has an estimated value of greater than
32 five thousand dollars (\$5,000), but less than two hundred fifty
33 thousand dollars (\$250,000), to a certified small business, including
34 a microbusiness, or to a disabled veteran business enterprise, as
35 long as the agency obtains price quotations ~~directly~~ from two or
36 more certified small businesses, including microbusinesses, or
37 ~~directly~~ from two or more disabled ~~veterans~~ veteran business
38 enterprises.

1 (2) *If the agency does not otherwise obtain more than two price*
2 *quotations from either certified small businesses, including*
3 *microbusinesses, or disabled veteran business enterprises, the*
4 *agency shall contact at least one additional certified small*
5 *business, including a microbusiness, or at least one additional*
6 *disabled veteran business enterprise, and provide a reasonable*
7 *opportunity for the additionally contacted business or businesses*
8 *to submit a price quotation. If the additionally contacted business*
9 *or businesses decline to submit a price quotation, the agency may*
10 *proceed with the two quotations it has obtained.*

11 (A) *The agency may contact a business of a type described in*
12 *this paragraph at any time and nothing in this paragraph shall be*
13 *construed to delay the award of a contract by requiring that the*
14 *agency first obtain the two price quotations required in paragraph*
15 *(1) before initiating an additional contact with a business of a type*
16 *described in this paragraph.*

17 (B) *It is the intent of this subdivision to encourage an agency*
18 *to award a contract to a business that has not previously contracted*
19 *with the agency within the prior 12 months.*

20 (b) In carrying out subdivision (a), a state agency shall consider
21 a responsive offer timely received from a responsible certified
22 small business, including a microbusiness, or from a disabled
23 veteran business enterprise.

24 (c) If the estimated cost to the state is less than five thousand
25 dollars (\$5,000) for the acquisition of goods, services, or
26 information technology, or a greater amount as administratively
27 established by the director, a state agency shall obtain at least two
28 price quotations directly from responsible suppliers whenever there
29 is reason to believe a response from a single source is not a fair
30 and reasonable price.

31 ~~SEC. 2. Section 14838.64 of the Government Code is amended~~
32 ~~to read:~~

33 ~~14838.64. (a) Notwithstanding any other law, including, but~~
34 ~~not limited to, the advertising, bidding, and protest provisions of~~
35 ~~Chapter 6 (commencing with Section 14825) of this part and~~
36 ~~Chapter 2.5 (commencing with Section 10700) and Chapter 3~~
37 ~~(commencing with Section 12100) of Part 2 of Division 2 of the~~
38 ~~Public Contract Code, the California State University may award~~
39 ~~a contract for the acquisition of goods, services, or information~~
40 ~~technology that has an estimated value of greater than five thousand~~

1 dollars (\$5,000), but less than two hundred fifty thousand dollars
2 (\$250,000), to a certified small business, including a microbusiness;
3 or to a disabled veteran business enterprise, if the California State
4 University directly obtains price quotations from two or more
5 certified small businesses, including microbusinesses, or directly
6 from two or more disabled veteran business enterprises.

7 (b) In carrying out subdivision (a), the California State
8 University shall consider a responsive offer timely received from
9 a responsible certified small business, including a microbusiness;
10 or from a disabled veteran business enterprise.

11 SEC. 3. Section 10508.5 of the Public Contract Code is
12 amended to read:

13 10508.5. (a) Notwithstanding any other law, including, but
14 not limited to, the advertising, bidding, and protest provisions of
15 Chapter 2.1 (commencing with Section 10500), the University of
16 California may award a contract for the acquisition of goods,
17 services, or information technology that has an estimated value of
18 greater than one hundred thousand dollars (\$100,000), but less
19 than two hundred fifty thousand dollars (\$250,000), to a certified
20 small business, including a microbusiness, or to a disabled veteran
21 business enterprise, if the University of California directly obtains
22 price quotations from two or more certified small businesses,
23 including microbusinesses, or directly from two or more disabled
24 veteran business enterprises.

25 (b) In carrying out subdivision (a), the University of California
26 shall consider a responsive offer timely received from a responsible
27 certified small business, including a microbusiness, or from a
28 disabled veteran business enterprise.

29 (c) No provision of this section shall apply to the University of
30 California except to the extent that the Regents of the University
31 of California, by appropriate resolution, make that provision
32 applicable.

33 SEC. 4. Section 20651.2 of the Public Contract Code is
34 amended to read:

35 20651.2. (a) Notwithstanding any other law, including, but
36 not limited to, the advertising, bidding, and protest provisions of
37 this article and Division 7 (commencing with Section 70900) of
38 Title 3 of the Education Code, but subject to Section 88003.1, the
39 governing board of a community college district may award a
40 contract for the acquisition of goods, services, or information

1 technology that has an estimated value of greater than five thousand
2 dollars (\$5,000), but less than two hundred fifty thousand dollars
3 (\$250,000), to a certified small business, including a microbusiness,
4 or to a disabled veteran business enterprise, if the community
5 college district directly obtains price quotations from two or more
6 certified small businesses, including microbusinesses, or directly
7 from two or more disabled veteran business enterprises.

8 (b) In carrying out subdivision (a), a community college district
9 shall consider a responsive offer timely received from a responsible
10 certified small business, including a microbusiness, or from a
11 disabled veteran business enterprise.

12 (c) The definitions set forth in Section 14837 of the Government
13 Code apply to this section.